

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

§

§

v.

§

Case No. 4:20-CR-269-Y-1

§

ERIC PRESCOTT KAY

§

**LOS ANGELES TIMES COMMUNICATIONS LLC’S MOTION TO
INTERVENE OR FOR LEAVE TO FILE A RESPONSE IN OPPOSITION TO THE
GOVERNMENT’S MOTION TO FILE WITNESS AND EXHIBIT LISTS UNDER SEAL**

The public and the press have a right to access criminal proceedings, which is infringed when judicial records are withheld from public view when doing so is not necessitated by compelling countervailing interests. Moreover, the Court has already cautioned the Government that its “amended witness and exhibit lists to be filed on February 1 will not be sealed absent extremely good cause.” [Dkt. 104 at 3]. Despite that, the Government has filed a Motion to Seal its amended witness and exhibit lists with arguments so threadbare that accepting them would effectively gut the public and the press’s First Amendment and common law rights to access judicial records in any case that has attracted media attention—the very cases where such rights are most likely to be exercised.

Los Angeles Times Communications LLC (the “Los Angeles Times”) therefore files this Motion to Intervene or For Leave to File a Response in Opposition to the Government’s Motion to Seal Judicial Records.¹

¹ The Court has already granted the Los Angeles Times’ Motion to Intervene, [Dkt. 104 at 2], which requested permission “to intervene in this case for the limited purpose of seeking the unsealing of judicial records,” [Dkt. 89 at 1]. But the Government has previously argued that the scope of the Los Angeles Times’ intervention does not extend to filing responses to the Government’s own motions. And it would appear the Government maintains that position, as it failed to comply with Northern District of Texas Local Criminal Rule 47.1(a) by conferring with the Los Angeles Times (which is listed as an Interested Party on the Court’s docket sheet) prior to filing its nominally “unopposed” motion to seal, [Dkt. 105 at 10]. Thus, to ensure that the substantive merits of this dispute are squarely presented to

Respectfully submitted,

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ATTORNEYS FOR LOS ANGELES TIMES
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the Court, the Los Angeles Times files this Motion to Intervene or for Leave to File a Response in Opposition to the Government's Motion to File Witness and Exhibit Lists Under Seal.

CERTIFICATE OF CONFERENCE

I hereby certify that on February 1, 2022, I conferred with counsel for Interested Party Angels Baseball LP, which has opted to “take no position,” and the Government, which is unopposed, regarding the foregoing motion. I also attempted to confer with counsel for Defendant Eric Prescott Kay regarding the foregoing motion, but he has not provided a response.

Under Northern District of Texas Local Rule 47.1(a), “[c]onferences are not required . . . when a conference is not possible.” Because the judicial records that the Government seeks to seal are due today, and the Court could rule on the Government’s Motion to Seal at any moment, it is not possible to both preserve my client’s opportunity to respond to the Government’s Motion to Seal and continue to await a response from the party that has yet to answer to my attempts to confer regarding the foregoing motion.

/s/ Christopher C. Cyrus
Christopher C. Cyrus

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2022, a true and correct copy of the foregoing document was served on the following counsel of record via the Court's electronic service process.

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